

By: Fletcher

H.B. No. 2887

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the disposition of forfeited property seized by the
3 Texas Department of Public Safety in certain investigations of
4 violations of the Texas Controlled Substances Act.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 59.06, Code of Criminal Procedure, is
7 amended by amending Subsection (a) and adding Subsection (r) to
8 read as follows:

9 (a) Except as provided by Subsections (k) and (r)
10 [~~Subsection (k)~~], all forfeited property shall be administered by
11 the attorney representing the state, acting as the agent of the
12 state, in accordance with accepted accounting practices and with
13 the provisions of any local agreement entered into between the
14 attorney representing the state and law enforcement agencies. If a
15 local agreement has not been executed, the property shall be sold on
16 the 75th day after the date of the final judgment of forfeiture at
17 public auction under the direction of the county sheriff, after
18 notice of public auction as provided by law for other sheriff's
19 sales. The proceeds of the sale shall be distributed as follows:

20 (1) to any interest holder to the extent of the
21 interest holder's nonforfeitable interest; and

22 (2) the balance, if any, after the deduction of court
23 costs to which a district court clerk is entitled under Article
24 59.05(f) and, after that deduction, the deduction of storage and

1 disposal costs, to be deposited not later than the 30th day after
2 the date of the sale in the state treasury to the credit of the
3 general revenue fund.

4 (r) Notwithstanding Subsection (a), property seized by the
5 Department of Public Safety in connection with an investigation of
6 a violation of Chapter 481, Health and Safety Code (Texas
7 Controlled Substances Act), shall be administered by the public
8 safety director of the department in the manner provided by rule
9 under Section 411.0208, Government Code.

10 SECTION 2. Subchapter A, Chapter 411, Government Code, is
11 amended by adding Section 411.0208 to read as follows:

12 Sec. 411.0208. SEIZURE OF CONTRABAND; INVESTIGATIONS OF
13 DRUG CRIME. The director by rule shall establish and implement
14 procedures relating to the disposition of property forfeited under
15 Chapter 59, Code of Criminal Procedure, that was seized by the
16 department in connection with an investigation of a violation of
17 Chapter 481, Health and Safety Code (Texas Controlled Substances
18 Act).

19 SECTION 3. Not later than October 1, 2011, the public safety
20 director of the Department of Public Safety shall adopt rules to
21 establish and implement procedures relating to the disposition of
22 certain forfeited property, as required by Section 411.0208,
23 Government Code, as added by this Act.

24 SECTION 4. Article 59.06, Code of Criminal Procedure, as
25 amended by this Act, applies to property seized or taken into
26 custody on or after the effective date of this Act. Property seized
27 or taken into custody before the effective date of this Act is

1 governed by the law in effect on the date the property is seized or
2 taken into custody, and the former law is continued in effect for
3 that purpose.

4 SECTION 5. This Act takes effect September 1, 2011.